



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: OCTOBER 14, 2022

IN THE MATTER OF:

Appeal Board No. 624046

PRESENT: RANDALL T. DOUGLAS, MEMBER

In Appeal Board Nos. 624046 and 624047, the Commissioner of Labor appeals from the decisions of the Administrative Law Judge, filed June 09, 2022, which modified the initial determination charging the claimant with an overpayment of \$10,764 in benefits recoverable pursuant to Labor Law § 597 (4), to be

non-recoverable, and as so modified, sustained the initial determination; and overruled the initial determination reducing the claimant's right to receive future benefits by 8 effective days and charging a civil penalty of \$2,415 on the basis that the claimant made a willful misrepresentation to obtain benefits.

At the combined hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There were appearance by the claimant and behalf of the employer.

The Board considered the arguments contained in the written statements submitted on behalf of the Commissioner of Labor.

Our review of the record reveals that the case should be remanded to hold a hearing. The Commissioner should be represented and produce evidence regarding the options given to the claimant about his job separation when he applied for benefits on July 13, 2021. The Judge should take further testimony and evidence to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Administrative Law Judge be, and the same hereby are, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions, on the issues, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

RANDALL T. DOUGLAS, MEMBER